

IN THE UNITED STATES DISTRICT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

MICHAEL JACKSON	)	
	)	
Movant,	)	
	)	
v.	)	Case No. 05-0261-CV-W-P
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

ORDER

Pending before the Court is Movant's Motion to vacate, correct, or set aside sentence pursuant to 28 U.S.C. § 2255 (Doc. 1). Movant first claims that his conviction was obtained "by use of perjured testimony" through the testimony of Sgt. Trader. For the reasons adopted in the Court's Order of March 17, 2005, Movant's motion on this ground is DENIED.

Second, Movant claims his counsel was ineffective in failing to challenge the in-court identification of the movant by Mr. Lee. The Court finds that defense counsel's performance was not constitutionally defective. Strickland v. Washington, 466 U.S. 668 (1984). Accordingly, Movant's motion on this ground is DENIED.

Movant's amended motion argues that his rights pursuant to Booker v. United States, 125 S.Ct. 738 (2005) were violated. As this ground is, in all likelihood, the reason why this case remains on direct appeal, the Court declines to issue a ruling on this ground. United States v. Gordon, 634 F.2d 638 (1st Cir. 1980).

IT IS SO ORDERED

/s/ DEAN WHIPPLE  
Dean Whipple  
United States District Judge

DATE: September 15, 2005